

NOTICE: Summary decisions issued by the Appeals Court pursuant to its rule 1:28, as amended by 73 Mass. App. Ct. 1001 (2009), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

18-P-1345

WINN MANAGEMENT PROPERTIES, LLC¹

vs.

DEBEROH PRENTICE.

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

The defendant, Deberoh Prentice, appeals from a judgment for possession in favor of the plaintiff, permanently enjoining her from entering a housing development in the Roxbury section of Boston, and thus displacing her from the housing unit she shared with her mother. We affirm.

Background. The plaintiff, Winn Management Properties, LLC (Winn), is the managing agent for New Academy Estates (New Academy), the owner of the housing development. Prentice's mother is a long-time tenant of New Academy. From April 2017 until she was required to leave, Prentice lived with her mother pursuant to a "Live-In Aide Affidavit/Agreement." Prentice's license to occupy the home as her mother's aide incorporates the provisions of her mother's lease and an occupancy agreement. In

¹ As managing agent for New Academy Estates.

his findings, rulings, and amended order for judgment (dated March 30, 2018), the Housing Court judge paraphrased the occupancy agreement as requiring that occupants of the development "live in a peaceful way respecting the rights of the other residents to comfort[,] safety, security and peaceful enjoyment and refrain from all acts which would interfere with such rights," and also refrain from engaging in "disruptive behavior or commit[ing] any disturbance or nuisance."²

Prentice did not appear at the one-half-day trial in this matter, held in January 2018. Based on testimony supplied at trial, the judge found that, in October 2017, Prentice was observed "pounding on other residents' doors, yelling and threatening to kill several residents." Prentice also "threatened to kill herself." Prentice was removed from the premises by ambulance. The judge found that Prentice's actions were in "material noncompliance" with the occupancy agreement. He found that her license to occupy her mother's apartment was, thus, lawfully revoked, and she had no lawful right to remain in or occupy the home. He also found that Prentice's continued presence in the housing complex posed a threat to the health and safety of her mother, other tenants, and Winn's employees.

² None of the primary documents governing the parties' relationships -- the lease, the occupancy agreement, or the live-in aide agreement -- are included in the record appendices filed by the parties.

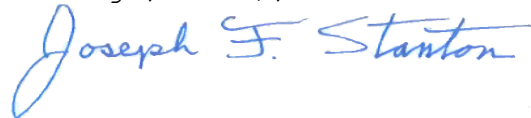
Discussion. In her brief, Prentice does not point to any clearly erroneous factual findings based on the evidence at trial, nor does she describe any legal errors. Her primary argument is that she did not receive notice of the trial date. It is unclear from the record when, if at all, Prentice raised this issue in the trial court. Even if she did so in her postjudgment motion for reconsideration, her notice of appeal indicates that she appealed only from the judgment, and not from the judge's order denying that motion. See Mass. R. A. P. 3 (c), as appearing in 430 Mass. 1602 (1999) (notice of appeal shall "designate the judgment, decree, adjudication, [or] order . . . appealed from"). See also Robinson v. Boston, 71 Mass. App. Ct. 765, 771 (2008).

In any event, there is no indication in the record that Prentice ever supplied the Housing Court judge with any admissible evidence (such as a sworn affidavit) concerning her alleged lack of notice. We therefore see no ground for vacating

the judgment based on a lack of notice.

Judgment affirmed.

By the Court (Rubin, Kinder &
Singh, JJ.³),



Clerk

Entered: August 1, 2019.

³ The panelists are listed in order of seniority.